



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/708,114	11/06/2000	Bruce A. Fairman	SONY-14500	9111
28960	7590	02/12/2004	EXAMINER	
HAVERSTOCK & OWENS LLP 162 NORTH WOLFE ROAD SUNNYVALE, CA 94086			HUYNH, KIM NGOC	
			ART UNIT	PAPER NUMBER
			2182	7
DATE MAILED: 02/12/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/708,114

Applicant(s)

FAIRMAN, BRUCE A.

Examiner

Kim Huynh

Art Unit

2182

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached sheets.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-46.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

KIM HUYNH
PRIMARY EXAMINER

2/10/04

Response to Arguments

1. Applicant's arguments filed 1/13/04 have been fully considered but they are not persuasive.

Applicant argues that the reference of Lai differs from the claimed invention, the examiner respectfully disagrees. Lai indicates that a FIFO is conventionally used in a network interface for storing transmit and received data, the disadvantage of using FIFO is the lack of flexibility in manipulating data since the data frame must be read out in the same order received and therefore increases latency in processing the incoming data (background, col. 1, ll. 23-46). Lai invention is to improve upon the FIFO by providing the ability to manipulating data in the "FIFO" of the network interface by using RAM to provide the flexibility in reading/manipulating the data.

Similarly, applicant's "FIFO" is more than just a first in first out (FIFO) memory in the conventional sense; the "FIFO" of applicant is an device including programmable elements, memory elements and control circuitry to manipulate the data stored in the memory element and produce an output which is different than the data being received into the memory element. The apparatus and operation of the apparatus are in the same manner as the apparatus disclosed by Lai. The only different is the terminology used to label the apparatus.

Applicant argues that Lai does not teach the "network interface device generates an output stream of data by executing a series of program instruction on the data stored within the FIFO". Please note executing the program instruction on the data stored

within the FIFO is different that executing the instructions within the FIFO. Similarly, “generating an output stream of data by executing ... and performing the operation on the stored stream of data” does not mean that the act of executing and performing are within the FIFO. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claims as recited require that input data are received and buffered/stored within the FIFO, **however, the claims do not require the rest of the steps/elements relating to the program instruction, execution, and generating the output data to be within the FIFO as argued.**